

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed August 9, 2006. Upon entry of the amendments in this response, claims 1, 2 and 5 - 7 pending. In particular, Applicant has added claims 5 - 7, has amended claim 1, and has canceled claims 3 and 4 without prejudice, waiver, or disclaimer. Applicant has canceled claims 3 and 4 merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

Rejections Under 35 U.S.C. §102

The Office Action indicates that claims 1 - 4 stand rejected under 35 U.S.C. §102(b) as being anticipated by *Shturman*. The Office Action further indicates that claims 1 - 4 stand rejected under 35 U.S.C. §102(b) as being anticipated by *Wulfnan*. The Office Action further indicates that claims 1 - 4 stand rejected under 35 U.S.C. §102(b) as being anticipated by *Fischell*. With respect to claim 3 and 4, Applicant has canceled these claims and respectfully asserts that the rejection has been rendered moot. With respect to the remaining claims, Applicant respectfully traverses.

As an initial matter, Applicant respectfully notes that although the cited references are "medical burs," the disclosed burs are for the field of atherectomy catheterization, which involves inserting the burs into arteries. This is in contrast to the Applicant's burs, which are for cutting bone. This distinction has been set forth in the amended claims. Therefore, for at

least this reason, Applicant respectfully asserts that the claims recite features/limitations that are not taught or otherwise disclosed in the references (either individually or in combination), thus rendering the claims patentable.

With respect to *Shturman*, and irrespective of the inapplicability of this reference as set forth above, the alleged “stop” of *Shturman* is not configured such that “a position of said stop portion along said shaft is fixed with respect to said cutting portion,” as recited in the pending claims. This is because a positioning wire is used to adjust a position of the cutting portion in *Shturman*.

With respect to *Wulfsberg*, and irrespective of the inapplicability of this reference as set forth above, the alleged “stop” of *Wulfsberg* is not configured such that “a position of said stop portion along said shaft is fixed with respect to said cutting portion,” as recited in the pending claims. This is because the alleged “stop” of *Wulfsberg* is a slip bearing.

In this regard, Applicant has amended claim 1 to recite:

1. A medical bur for cutting bone, said medical bur comprising:
a handle configured to be gripped by a user;
a shaft extending from said handle; and
a bur head attached to a distal end of said shaft, ***said bur head having a cutting portion and a stop portion such that a position of said stop portion along said shaft is fixed with respect to said cutting portion;***
said cutting portion being located between said handle and said stop portion, said cutting portion having a longitudinal axis and exhibiting symmetry thereabout, said longitudinal axis being aligned with a longitudinal axis of said shaft;
said stop portion being spaced from said cutting portion along said shaft to permit independent movement of said cutting portion about said longitudinal axis of said shaft with respect to said stop portion, said stop portion having a longitudinal axis and exhibiting symmetry thereabout;
wherein said cutting portion of said bur head is adapted to rotate under power and said stop portion of said bur head is adapted to move independently with respect to said cutting portion such that said cutting portion is rotatable to cut through bone while said stop portion tends to prevent contact of said cutting portion with soft tissue located adjacent the bone being cut.

(Emphasis added).

Applicant respectfully asserts that the cited references (either individually or in combination) are legally deficient for the purpose of rendering claim 1 unpatentable. In particular, none of the references teaches or otherwise discloses the features emphasized above in claim 1. Specifically, *Fischell* clearly is not involved with a bur in which "said cutting portion is rotatable to cut through bone while said stop portion tends to prevent contact of said cutting portion with soft tissue located adjacent the bone being cut," as recited in claim 1. Therefore, Applicant respectfully asserts that claim 1 is in condition for allowance.

Since claim 2 is a dependent claim that incorporates the features of claim 1, Applicant respectfully asserts that this claim also is in condition for allowance. Additionally, this claim recites other features that can serve as an independent basis for patentability.

Newly Added Claims

Applicant respectfully submits that cited references fail to teach or suggest all features of newly added claims 5 -7. Specifically, these claims are dependent claims that incorporate the limitations of independent claim 1, the allowability of which is set forth above. Additionally, these claims recite other features that can serve as an independent basis for patentability. No new matter has been added.

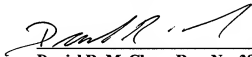
Cited Art Made of Record

The cited art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Daniel R. McClure", is written over a horizontal line.

Daniel R. McClure, Reg. No. 38,962